



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

AMENDED
FACT SHEET FOR H.B. 2568

community facilities districts; formation; governance

Purpose

Requires the creation of a community facilities district (district) if the proposed land totals more than 600 acres and every land owner has signed the petition, to begin after the effective date of the amendment.

Background

Currently, a declaration of intention to form a district requires 25 percent of the land owners of the proposed land area to sign a petition and permits the governing body to adopt a resolution declaring its intention to form a district. The resolution must include: a) the area to be included; b) purpose of the district; c) general plan that is to be filed with the clerk; d) date, time and place of the hearing to form the district; e) the location to send written objections; f) that the formation of the district may result in a levy of taxes to pay the cost of district made improvements; g) a reference to A.R.S. Title 49, Chapter 6; and h) whether the district is to be run by a board that consists of members of the governing body, ex officio, or if more than 600 acres, five directors appointed by the governing body (A.R.S. § 48-702).

Among others, districts have the authority to enter into contracts and spend money to operate and maintain public infrastructure. If legally permitted, the district can sell lease or dispose of property and establish, charge and collect user fees and rates (A.R.S. § 48-709).

Constructed or acquired projects may be financed by: a) proceeds from the sale of bonds of the district; b) contributions from the municipality, county, state, federal government or private sector; c) annual tax levies; d) special assessments; e) grants from the state or federal governments; f) landowner, user and other fees and charges; g) proceeds from loans or advances; or h) any other legally available money (A.R.S. § 48-717).

Governing body means the body or board which by law is constituted as the legislative department of the municipality or county (A.R.S. § 48-701).

District means a tax levying community facilities district, formed pursuant to statute, by a municipality or formed pursuant to this article by a county in an unincorporated area or in an incorporated area with the municipality's consent (A.R.S. § 48-701).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the governing body to adopt a resolution ordering the formation of a district if:
 - a) the proposed land totals more than 600 acres; and
 - b) it is formed after the effective date of the amendment; and
 - c) if the land is located in unincorporated area of a county, the land meets the stipulated requirements.
2. Requires land located in an unincorporated area of a county to meet the following requirements before a declaration of intent to form a district:
 - a) is zoned to allow for development for at least one residential dwelling per acre;
 - b) is part of a county approved specific plan or development agreement; and
 - c) is either:
 - i. included within the municipality;
 - ii. included in the land use element of a municipality; or
 - iii. located immediately adjacent to the municipality.
3. Requires the governing body to adopt the resolution of a qualified unincorporated area of a county within 90 days of submission of the petition.
4. Permits the governing body to modify the general plan or delete any property that is determined to not benefit the district.
5. Requires the land owners of the district provide the governing body an agreement to indemnify the governing body from liabilities, claims, costs and expenses that are incurred during the formation, operation or administration of the proposed district.
6. Requires the indemnification to establish land owners general obligations, but it cannot be secured by the land.
7. Requires the indemnification to be accepted without reference to the owner's ability to make repayments.
8. Permits the landowners to decide, pursuant to statute, who will comprise the governing district board (board), if the district is larger than 600 acres and formed after the effective date of the amendment.
9. Requires districts formed after the effective date of the amendment to have a board that consists of:
 - a) two members who are directly selected by the governing body;
 - b) one member selected from a list of at least four people that is submitted by district landowners who own more than 25 acres; and

- c) two members, required to have expertise in either real estate, engineering, land planning, construction, law, finance or any related field, selected by the district land owners who own more than 25 acres.
10. Requires new appointments and vacancies to the board follow these same prescribed provisions, if the district is formed after the effective date of the amendment.
11. Prohibits members of the governing body of a district to receive compensation for their services as board members.
12. Requires the manager of the municipality or county to be the manager for a district, unless the board appoints a district manager.
13. Amends definition of *district board* to include the newly prescribed board for districts over 600 acres and created after the date of the amendment.
14. Requires the county waive any or all requirements for distributing information about landowner elections.
15. Permits districts that exist on the effective date of the amendment, but do not have any qualified electors, and have not issued any bonds, to submit a petition to the governing body to request that the district's board consist of the previously stipulated requirements.
16. Requires the governing body to approve or disapprove the request within 90 days of the petition.
17. Prohibits the land owners to appoint themselves as board members.
18. Requires the board to hold public hearings on project reports within 60 days of receiving one.
19. Permits the board to reject or approve the report within 60 days after the hearing.
20. Requires an approved report to include the nature and timing of issuing bonds.
21. Requires a board or governing body to hold a general obligation bond's election, upon the petition of 25 percent of the district land owners, and must ask the question of authorizing the board to issue general obligation bonds.
22. Permits the general bond's election to be held in conjunction with the formation election.
23. Requires the governing body to take ownership of a discrete segment of public infrastructure within 180 days from the submission of an engineer's certification.
24. Makes technical and conforming corrections.
25. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Specifies land located in an unincorporated area of a county must meet additional stipulated requirements in order to qualify for the automatic formation of a district.
2. Specifies qualified districts with owners of 25 acres or more cannot be appointed as a board director.
3. Stipulates two board members must have expertise in one or more of the prescribed fields.
4. Requires the automatic order of a general obligation bond's election upon petition of 25 percent of district land owners.
5. Permits qualified districts to submit a petition to change their board structure and must receive a vote or approval or disapproval within 90 days.
6. Requires the governing body to take control and maintenance of any discrete segment of public infrastructure completed by the district within 180 days.

House Action

WM 2/15/16 DPA 8-0-1
3rd 2/25/16 60-0-0

Senate Action

GOV 3/16/16 DPA 5-1-1

Prepared by Senate Research

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